

To the Members of the California State Senate:

I am returning Senate Bill 171 without my signature.

Ensuring that all criminal confessions are reliable is a laudable goal. I understand that some recent studies have shown that false confessions are a growing problem in the United States. However, the language contained in this bill is flawed, which could result in the erroneous release of criminals guilty of murder or other violent crimes due to technicalities.

This bill requires the electronic recording of all “custodial interrogations” of individuals that may have committed a homicide or violent felony. Yet the bill defines “custodial interrogation” differently than the definition used by the U.S. Supreme Court for giving ‘Miranda rights’ and requires recording when someone is “suspected” of any one of the twenty-three violent crimes listed under Penal Code Section 667.5, but does not specify what “suspected” means. These drafting errors could lead to confusion for all involved parties and potential situations where law enforcement unknowingly fails to comply with the mandates of the bill. For example, at the time law enforcement is interrogating a suspect they may have good reason to think the suspect is guilty of a lesser crime not contained in Penal Code Section 667.5 and later after reviewing the evidence or hearing the individual’s statements, the District Attorney may decide to charge the suspect with a violent felony.

Since public safety is my top priority I cannot sign this flawed bill. I support the concept of this bill and I would encourage the Legislature to work with law enforcement in order to send me a bill that helps ensure the reliability of confessions while not creating opportunities for those guilty of violent crimes to avoid punishment because of a technical loophole.

Sincerely,

Arnold Schwarzenegger